



January 22, 2016

SENATE BILL No. 206

DIGEST OF SB 206 (Updated January 20, 2016 12:15 pm - DI 104)

Citations Affected: IC 4-21.5; IC 4-24; IC 7.1-3; IC 12-7; IC 12-8; IC 12-9; IC 12-9.1; IC 12-10; IC 12-11; IC 12-12.5; IC 12-13; IC 12-15; IC 12-17.2; IC 12-17.6; IC 12-21; IC 12-24; IC 12-25; IC 12-26; IC 16-18; IC 16-29; IC 25-23.

Synopsis: FSSA matters. Allows the secretary of family and social services (secretary) to delegate appointment authorities, the issuance of certain orders, and other acts to carry out the functions of the divisions to an individual. Authorizes the secretary to adopt rules concerning the implementation and administration of the early education grant pilot program. Changes references from intermediate care facility for the mentally retarded to intermediate care facility for individuals with intellectual disabilities. Creates an exception for state institutions concerning advanced practice nurses acting under a collaborative agreement with a practitioner, requiring that the nurse act under privileges granted by the governing body of the institution.

Effective: Upon passage.

**Miller Patricia, Becker,
Charbonneau**

January 6, 2016, read first time and referred to Committee on Health & Provider Services.
January 21, 2016, amended, reported favorably — Do Pass.

SB 206—LS 6662/DI 104



January 22, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 206

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-21.5-3-6, AS AMENDED BY P.L.186-2015,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 6. (a) Notice shall be given under this section
4 concerning the following:

5 (1) A safety order under IC 22-8-1.1.

6 (2) Any order that:

7 (A) imposes a sanction on a person or terminates a legal right,
8 duty, privilege, immunity, or other legal interest of a person;

9 (B) is not described in section 4 or 5 of this chapter or
10 IC 4-21.5-4; and

11 (C) by statute becomes effective without a proceeding under
12 this chapter if there is no request for a review of the order
13 within a specified period after the order is issued or served.

14 (3) A notice of program reimbursement or equivalent
15 determination or other notice regarding a hospital's
16 reimbursement issued by the office of Medicaid policy and
17 planning or by a contractor of the office of Medicaid policy and

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1 planning regarding a hospital's year end cost settlement.

2 (4) A determination of audit findings or an equivalent
3 determination by the office of Medicaid policy and planning or by
4 a contractor of the office of Medicaid policy and planning arising
5 from a Medicaid postpayment or concurrent audit of a hospital's
6 Medicaid claims.

7 (5) A license suspension or revocation under:

8 (A) IC 24-4.4-2;

9 (B) IC 24-4.5-3;

10 (C) IC 28-1-29;

11 (D) IC 28-7-5;

12 (E) IC 28-8-4; or

13 (F) IC 28-8-5.

14 (6) An order issued by the

15 ~~(A) division of aging or the bureau of aging services; or~~

16 ~~(B) division of disability and rehabilitative services or the~~
17 ~~bureau of developmental disabilities services;~~

18 **secretary or the secretary's designee** against providers
19 regulated by the division of aging or the bureau of developmental
20 disabilities services and not licensed by the state department of
21 health under IC 16-27 or IC 16-28.

22 (b) When an agency issues an order described by subsection (a), the
23 agency shall give notice to the following persons:

24 (1) Each person to whom the order is specifically directed.

25 (2) Each person to whom a law requires notice to be given.

26 A person who is entitled to notice under this subsection is not a party
27 to any proceeding resulting from the grant of a petition for review
28 under section 7 of this chapter unless the person is designated as a
29 party in the record of the proceeding.

30 (c) The notice must include the following:

31 (1) A brief description of the order.

32 (2) A brief explanation of the available procedures and the time
33 limit for seeking administrative review of the order under section
34 7 of this chapter.

35 (3) Any other information required by law.

36 (d) An order described in subsection (a) is effective fifteen (15) days
37 after the order is served, unless a statute other than this article specifies
38 a different date or the agency specifies a later date in its order. This
39 subsection does not preclude an agency from issuing, under
40 IC 4-21.5-4, an emergency or other temporary order concerning the
41 subject of an order described in subsection (a).

42 (e) If a petition for review of an order described in subsection (a) is



1 filed within the period set by section 7 of this chapter and a petition for
 2 stay of effectiveness of the order is filed by a party or another person
 3 who has a pending petition for intervention in the proceeding, an
 4 administrative law judge shall, as soon as practicable, conduct a
 5 preliminary hearing to determine whether the order should be stayed in
 6 whole or in part. The burden of proof in the preliminary hearing is on
 7 the person seeking the stay. The administrative law judge may stay the
 8 order in whole or in part. The order concerning the stay may be issued
 9 after an order described in subsection (a) becomes effective. The
 10 resulting order concerning the stay shall be served on the parties and
 11 any person who has a pending petition for intervention in the
 12 proceeding. It must include a statement of the facts and law on which
 13 it is based.

14 SECTION 2. IC 4-24-6-4, AS AMENDED BY P.L.188-2013,
 15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 4. (a) This section does not apply to a patient
 17 in an institution listed in IC 12-24-1-3 if the patient is in a unit that is
 18 a Medicaid certified intermediate care facility for ~~the mentally retarded.~~
 19 **individuals with intellectual disabilities.**

20 (b) Any interest or income derived from the deposit or investment
 21 of funds held in trust for any patient or inmate shall be transferred from
 22 such trust fund to a special fund to be known as the "patients' recreation
 23 fund" or "inmates' recreation fund"; provided, that in the event a trust
 24 fund has been established in any institution, which trust fund is in
 25 existence on July 1, 1957, and there is a deficiency in the amount of
 26 money that properly belongs in such trust fund, the income derived
 27 from any trust fund established under the provisions of this chapter
 28 shall be paid into the trust fund until the deficiency has been fully paid.

29 SECTION 3. IC 7.1-3-1-29, AS ADDED BY P.L.196-2015,
 30 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 29. (a) For purposes of this section, "health
 32 facility" does not include an intermediate care facility for ~~the mentally~~
 33 **retarded. individuals with intellectual disabilities.**

34 (b) As used in this section, "senior residence facility" means a:

- 35 (1) health facility licensed under IC 16-28; or
- 36 (2) housing with services establishment (as defined in
- 37 IC 12-10-15-3).

38 (c) For purposes of this section, "senior residence facility campus"
 39 means a senior residence facility and the property on which a senior
 40 residence facility is located.

41 (d) A senior residence facility may, without a permit issued under
 42 this title, possess and give or furnish an alcoholic beverage, by the



bottle or by the glass, on the premises of the senior residence facility campus for consumption on the premises to any of the following:

(1) A resident who:

(A) is not a minor; and

(B) resides on the premises of the senior residence facility.

(2) A guest or family member of a resident described in subdivision (1) who:

(A) is not a minor; and

(B) is visiting the resident at the senior residence facility.

(e) Subject to subsection (f), this section may not be construed to authorize a senior residence facility to sell alcoholic beverages on the premises of the senior residence facility campus without a permit under this title.

(f) For purposes of this section, a senior residence facility that:

(1) charges a:

(A) room and board fee to residents of the senior residence facility; or

(B) fee for organizing activities for:

(i) residents of the senior residence facility; and

(ii) guests or family members of the residents;

(2) uses a portion of a fee described in subdivision (1) to:

(A) purchase alcoholic beverages; and

(B) furnish the alcoholic beverages to individuals described in subsection (d); and

(3) does not purchase and furnish the alcoholic beverages for profit;

is not considered to be selling alcoholic beverages.

SECTION 4. IC 12-7-2-59 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 59. **(a) Except as provided in subsection (b), "designee" for purposes of IC 12-10-12, has the meaning set forth in IC 12-10-12-2. means an office director, division director, or other employee of the office of the secretary with expertise or knowledge concerning the area for which the individual is being designated.**

(b) The definition set forth in subsection (a) does not apply to the following:

(1) Designations for purposes of administrative proceedings under IC 4-21.5.

(2) IC 12-11-1.1-10.

(3) IC 12-15-11-2.5.

(4) IC 12-15-13-3.5.

(5) IC 12-15-13-4.



(6) Designations of superintendents under IC 12-21-2-3 or IC 12-24-2-2.

(7) IC 12-30-2-15.

SECTION 5. IC 12-7-2-61, AS AMENDED BY P.L.229-2011, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 61. (a) Except as provided in subsection (b), "developmental disability" means a severe, chronic disability of an individual that meets all of the following conditions:

(1) Is attributable to:

(A) intellectual disability, cerebral palsy, epilepsy, or autism;

or

(B) any other condition (other than a sole diagnosis of mental illness) found to be closely related to intellectual disability, because this condition results in similar impairment of general intellectual functioning or adaptive behavior or requires treatment or services similar to those required for a person with an intellectual disability.

(2) Is manifested before the individual is twenty-two (22) years of age.

(3) Is likely to continue indefinitely.

(4) Results in substantial functional limitations in at least three (3) of the following areas of major life activities:

(A) Self-care.

(B) Understanding and use of language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

(b) The definition in subsection (a) does not apply and may not affect services provided to an individual receiving:

(1) home and community based Medicaid waiver; or

(2) ~~ICF/MR~~; **ICF/IID**;

services through the division on June 30, 2011.

SECTION 6. IC 12-7-2-134, AS AMENDED BY P.L.160-2012, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 134. "Office" means the following:

(1) Except as provided in subdivisions (2) through ~~(4)~~; **(5)**, the office of ~~Medicaid policy and planning~~ **the secretary** established by ~~IC 12-8-6.5-1~~. **IC 12-8-1.5-1.**

(2) For purposes of IC 12-10-13, the meaning set forth in IC 12-10-13-4.



(3) For purposes of IC 12-15-13, the meaning set forth in IC 12-15-13-0.4.

(4) For purposes of IC 12-17.2-7.2, the meaning set forth in IC 12-17.2-7.2-3.

~~(4)~~ **(5)** For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-4.

SECTION 7. IC 12-7-2-135, AS AMENDED BY P.L.160-2012, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 135. "Office of the secretary" refers to the office of the secretary of family and social services established by IC 12-8-1.5-1, **its offices, or divisions.**

SECTION 8. IC 12-8-8.5-3, AS AMENDED BY P.L.39-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** The secretary is the appointing authority for the division.

(b) The secretary may delegate a division director or other employee of the office of the secretary to make division appointments and decisions concerning current appointments.

SECTION 9. IC 12-8-8.5-5, AS AMENDED BY P.L.39-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** The secretary is the ultimate authority under IC 4-21.5 for purposes of the operation of the division and the programs of the division.

(b) The secretary may delegate an individual to serve as the ultimate authority.

SECTION 10. IC 12-9-2-3, AS AMENDED BY P.L.153-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The ~~director~~ **secretary or the secretary's designee** may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

(2) Issue orders under IC 4-21.5-3-6.

(3) Perform any other acts necessary to carry out the functions of the division.

(b) The director may do the following:

~~(2)~~ **(1)** Utilize, with their consent, the services and facilities of other state agencies without reimbursement.

~~(3)~~ **(2)** Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.

~~(4)~~ **(3)** Accept voluntary and uncompensated services.

~~(5)~~ **(4)** Expend money made available to the division according to



policies enforced by the budget agency.

~~(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division.~~

~~(7) (5) Establish and implement the policies and procedures necessary to carry out the functions of the division.~~

~~(8) Issue orders under IC 4-21.5-3-6.~~

~~(9) (6) Perform any other acts necessary to carry out the functions of the division as delegated by the secretary or consistent with the director's duties.~~

~~(b) (c) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.~~

SECTION 11. IC 12-9.1-2-3, AS AMENDED BY P.L.153-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The ~~director secretary or the secretary's designee~~ may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

~~(2) Issue orders under IC 4-21.5-3-6.~~

~~(3) Perform any other acts necessary to carry out the functions of the division.~~

~~(b) The director may do the following:~~

~~(2) (1) Use, with their consent, the services and facilities of other state agencies without reimbursement.~~

~~(3) (2) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.~~

~~(4) (3) Accept voluntary and uncompensated services.~~

~~(5) (4) Expend money made available to the division according to policies enforced by the budget agency.~~

~~(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division.~~

~~(7) (5) Establish and implement the policies and procedures necessary to carry out the functions of the division.~~

~~(8) Issue orders under IC 4-21.5-3-6.~~

~~(9) (6) Perform any other acts necessary to carry out the functions of the division as delegated by the secretary or consistent with the director's statutory duties.~~

~~(b) (c) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2~~



1 ~~necessary to implement this subsection.~~

2 SECTION 12. IC 12-10-7-7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The ~~director of~~
4 ~~the division~~ **secretary** shall adopt rules under IC 4-22-2 to implement
5 this chapter.

6 SECTION 13. IC 12-10-11.5-1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
8 chapter, "institution" means any of the following:

9 (1) A health facility licensed under IC 16-28.

10 (2) An intermediate care facility for ~~the mentally retarded.~~
11 **individuals with intellectual disabilities.**

12 SECTION 14. IC 12-10-13-8 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Subject to
14 sections 10 through 12 of this chapter, the ~~director of the division~~
15 **secretary or the secretary's designee** shall appoint the state long term
16 care ombudsman to direct the office on a full-time basis.

17 SECTION 15. IC 12-10-13-9 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The ~~director~~
19 **secretary or the secretary's designee** shall appoint an acting state
20 ombudsman within thirty (30) days of a vacancy in the position of state
21 ombudsman. The acting state ombudsman has the powers and duties of
22 the state ombudsman.

23 SECTION 16. IC 12-10-13-11 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The ~~director~~
25 ~~may not appoint as state ombudsman an individual who has~~ **may not**
26 **have** been employed by a long term care facility or a home care service
27 organization within one (1) year preceding the ~~director's~~ proposed
28 appointment **by the secretary or the secretary's designee.**

29 SECTION 17. IC 12-10-13-17 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The ~~director of~~
31 ~~the division~~ **secretary** shall adopt rules under IC 4-22-2 necessary to
32 carry out this chapter.

33 SECTION 18. IC 12-10-14-1 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
35 chapter, "bill payer" means a person appointed by the ~~bureau~~ **secretary**
36 **or the secretary's designee** under this chapter to provide one (1) or
37 more of the following services in order to assist a low income
38 individual who is able to make responsible decisions about financial
39 matters but needs assistance:

40 (1) Paying bills each month and keeping records.

41 (2) Establishing a budget.

42 (3) Opening, organizing, and sending out mail.



(4) Assisting the individual in check writing, with all checks to be signed by the individual.

(5) Balancing checkbooks.

(6) Making referrals to other agencies when necessary.

SECTION 19. IC 12-10-15-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The ~~director~~ **secretary** shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The ~~director~~ **secretary** shall adopt rules concerning the following:

(1) Procedures for the posting of notices at housing with services establishments, area agencies on aging, and centers for independent living (as defined by IC 12-12-8-1) that advise residents of their rights under this chapter.

(2) Procedures for residents and their representatives to file complaints with the director concerning violations of this chapter.

SECTION 20. IC 12-11-1.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 21. IC 12-11-1.1-10, AS AMENDED BY P.L.246-2005, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The office may assess providers of community based services to individuals with a developmental disability who otherwise qualify to receive ~~ICF/MR~~ **ICF/IID** (as defined in IC 16-29-4-2) based services in an amount not to exceed six percent (6%) of all service revenue included on the annual plan of care excluding resident living allowances.

(b) The assessments shall be paid to the office not later than the tenth day of the month for each month that the individual is in service. The office or the office's designee may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) The community services quality assurance fund is created. The fund shall be administered by the office.

(d) Revenue from the assessments under this section shall be deposited into the fund. Money in the fund must be used for community services for persons with developmental disabilities.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) If federal financial participation to match the assessments in



subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

SECTION 22. IC 12-11-2.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The bureau may not approve the initial placement of a developmentally disabled individual in an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** serving more than eight (8) individuals or a nursing facility unless:

(1) the individual has medical needs; and

(2) the placement is appropriate to the individual's needs.

If the placement is in a nursing facility, that placement must be appropriate to an individual's needs based upon preadmission screening conducted under IC 12-10-12.

SECTION 23. IC 12-11-2.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 24. IC 12-11-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The ~~director~~ **secretary** may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 25. IC 12-11-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The ~~director~~ **secretary or the secretary's designee** shall appoint an acting ombudsman within thirty (30) days of a vacancy in the position of the ombudsman. The acting ombudsman has the powers and duties of the ombudsman.

SECTION 26. IC 12-11-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 27. IC 12-12.5-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 28. IC 12-13-2-3, AS AMENDED BY P.L.39-2015, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~director~~ **secretary** is responsible for the following:

(1) The appointment of state investigators or boards of review provided by law that are necessary to ensure a fair hearing to an applicant or a recipient. A fair hearing shall be granted at the



request of an aggrieved person who desires a hearing. The division shall review cases upon the request of an applicant, a recipient, or an aggrieved person.

(2) The adoption of all policies for the division.

(3) The administrative and executive duties and responsibilities of the division.

(4) The establishment of salaries for the officers and employees of the division within the salary ranges of the pay plan adopted by the Indiana personnel advisory board and approved by the budget committee.

(5) The establishment of minimum standards of assistance for old age and dependent children recipients. A standard established under this subdivision must apply to all individuals in Indiana.

SECTION 29. IC 12-13-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The ~~director~~ **secretary or the secretary's designee** shall appoint necessary eligible personnel for the efficient performance of the division's duties.

SECTION 30. IC 12-13-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The ~~director~~ **secretary or the secretary's designee** shall appoint a bureau head or an employee who reports directly to the director.

(b) The bureau head shall, with the approval of the ~~director~~, **secretary or the secretary's designee**, appoint each employee who reports directly to the head.

SECTION 31. IC 12-13-7-6, AS AMENDED BY P.L.210-2015, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The ~~director of the division~~ **secretary** shall adopt rules under IC 4-22-2 necessary to administer and supervise SNAP.

SECTION 32. IC 12-15-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The secretary ~~and office~~ may:

(1) take actions;

(2) give directions; and

(3) adopt procedures and rules under IC 4-22-2;

necessary to carry out the Medicaid program and the federal Social Security Act to provide Medicaid and ensure uniform equitable treatment of applicants for and recipients of Medicaid.

SECTION 33. IC 12-15-1-15, AS AMENDED BY P.L.210-2015, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The office shall administer the program of assignment, enforcement, and collection of rights of



1 payments for medical care that is provided for under 42 U.S.C. 1396k.

2 (b) The office may enter into contracts to administer the program
3 described in subsection (a).

4 (c) The ~~office of the~~ secretary shall adopt rules under IC 4-22-2 to
5 implement this section.

6 SECTION 34. IC 12-15-1-16 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Each:

8 (1) school corporation; or

9 (2) school corporation's employed, licensed, or qualified provider;
10 must enroll in a program to use federal funds under the Medicaid
11 program (IC 12-15-1 et seq.) with the intent to share the costs of
12 services that are reimbursable under the Medicaid program and that are
13 provided to eligible children by the school corporation. However, a
14 school corporation or a school corporation's employed, licensed, or
15 qualified provider is not required to file any claims or participate in the
16 program developed under this section.

17 (b) The ~~office of Medicaid policy and planning~~ **secretary** and the
18 department of education may develop policies and adopt rules to
19 administer the program developed under this section.

20 (c) Three percent (3%) of the federal reimbursement for paid claims
21 that are submitted by the school corporation under the program
22 required under this section must be:

23 (1) distributed to the state general fund for administration of the
24 program; and

25 (2) used for consulting to encourage participation in the program.

26 The remainder of the federal reimbursement for services provided
27 under this section must be distributed to the school corporation. The
28 state shall retain the nonfederal share of the reimbursement for
29 Medicaid services provided under this section.

30 (d) The office of Medicaid policy and planning, with the approval
31 of the budget agency and after consultation with the department of
32 education, shall establish procedures for the timely distribution of
33 federal reimbursement due to the school corporations. The distribution
34 procedures may provide for offsetting reductions to distributions of
35 state tuition support or other state funds to school corporations in the
36 amount of the nonfederal reimbursements required to be retained by the
37 state under subsection (c).

38 SECTION 35. IC 12-15-8.5-1 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
40 chapter, "medical institution" means any of the following:

41 (1) A hospital.

42 (2) A nursing facility.



(3) An intermediate care facility for ~~the mentally retarded~~
individuals with intellectual disabilities.

SECTION 36. IC 12-15-13-3.5, AS ADDED BY P.L.229-2011,
 SECTION 125, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) As used in this section,
 "noninstitutional provider" means any Medicaid provider other than the
 following:

(1) A health facility licensed under IC 16-28.

(2) An ~~ICF/MR~~ **ICF/IID** (as defined in IC 16-29-4-2).

(b) If the office of the secretary or the office of the secretary's
 designee believes that an overpayment to a noninstitutional provider
 has occurred, the office of the secretary or the office of the secretary's
 designee may submit to the noninstitutional provider a preliminary
 review of draft audit findings.

(c) A noninstitutional provider that receives a preliminary review of
 draft audit findings under subsection (b) may request administrative
 reconsideration of the preliminary review of draft audit findings not
 later than forty-five (45) days after the issuance of the preliminary
 review of draft audit findings. The noninstitutional provider may
 submit comments along with the request for administrative
 reconsideration. The noninstitutional provider must request
 administrative reconsideration before filing an appeal.

(d) Following administrative reconsideration of the preliminary
 review of draft audit findings and any comments submitted along with
 the noninstitutional provider's request for administrative consideration
 and if the office of the secretary or the office of the secretary's designee
 believes that an overpayment has occurred, the office of the secretary
 or the office of the secretary's designee shall notify the noninstitutional
 provider in writing that the office of the secretary or the office of the
 secretary's designee:

(1) believes that the overpayment has occurred; and

(2) is issuing a final calculation of the overpayment.

(e) A noninstitutional provider who receives a notice under
 subsection (d) may elect to do one (1) of the following:

(1) Repay the amount of the final calculation not later than three
 hundred (300) days after the provider received the notice under
 subsection (d), including interest:

(A) due from the noninstitutional provider; and

(B) accruing from the date of overpayment.

(2) Request a hearing by filing an administrative appeal not later
 than sixty (60) days after receiving the notice under subsection (d)
 and repay the amount of the final calculation of the overpayment



under subsection (d) not later than three hundred (300) days after receiving the notice under subsection (d).

(f) If:

(1) a noninstitutional provider elects to proceed under subsection (e)(2); and

(2) the office of the secretary or the office of the secretary's designee determines after the hearing and any subsequent appeal that the noninstitutional provider does not owe the money that the office of the secretary or the office of the secretary's designee believed the noninstitutional provider owed;

the office of the secretary or the office of the secretary's designee shall return the amount of the alleged overpayment, and any interest paid by the noninstitutional provider, and pay the noninstitutional provider interest on the money from the date of the noninstitutional provider's repayment.

(g) Interest that is due under this section shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) as follows:

(1) Interest due from a noninstitutional provider to the state shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(2) Interest due from the state to a noninstitutional provider shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(h) Interest on an overpayment to a noninstitutional provider is not due from the noninstitutional provider if the overpayment is the result of an error of:

(1) the office; or

(2) a contractor of the office;

as determined by the office of the secretary or the office of the secretary's designee.

(i) If interest on an overpayment to a noninstitutional provider is due from the noninstitutional provider, the secretary or the secretary's designee may, in the course of negotiations with the noninstitutional provider regarding an appeal filed under subsection (e), reduce the amount of interest due from the noninstitutional provider.

(j) Proceedings under this section are subject to IC 4-21.5.

SECTION 37. IC 12-15-13-4, AS ADDED BY P.L.229-2011, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this section, "institutional provider" means the following:

(1) A health facility that is licensed under IC 16-28.



(2) An ~~ICF/MR~~ **ICF/IID** (as defined in IC 16-29-4-2).

(b) If the office of the secretary or the office of the secretary's designee believes that an overpayment to an institutional provider has occurred, the office of the secretary or the office of the secretary's designee may do the following:

(1) Submit to the institutional provider a draft of the audit findings and accept comments from the institutional provider for consideration by the office of the secretary or the office of the secretary's designee before the audit findings are finalized.

(2) Finalize the audit findings and issue the preliminary recalculated Medicaid rate.

(c) An institutional provider that receives a preliminary recalculated Medicaid rate under subsection (b)(2) may request administrative reconsideration of the preliminary recalculated Medicaid rate not later than forty-five (45) days after the issuance of the preliminary recalculated rate. The institutional provider must request administrative reconsideration before filing an appeal.

(d) Following reconsideration of an institutional provider's comments, and if the office of the secretary or the office of the secretary's designee believes that an overpayment has occurred, the office of the secretary or the office of the secretary's designee shall notify the institutional provider in writing that the office of the secretary or the office of the secretary's designee:

(1) believes that the overpayment has occurred; and

(2) is issuing a final recalculated Medicaid rate.

(e) Upon the next payment cycle, the office of the secretary or the office of the secretary's designee shall retroactively implement the final recalculated Medicaid rate.

(f) If the institutional provider is dissatisfied with the reconsideration response issued by the office of the secretary or the office of the secretary's designee, the institutional provider may request a hearing by filing an appeal with the office of the secretary not later than sixty (60) days after the issuance of the reconsideration response.

(g) If an institutional provider requests a hearing under subsection (f) and the office of the secretary or the office of the secretary's designee determines after the hearing and any subsequent appeal that the institutional provider does not owe the money that the office of the secretary or the office of the secretary's designee believed the institutional provider owed, the office of the secretary or the office of the secretary's designee shall repay the following to the institutional provider not later than thirty (30) days after the completion of the hearing:



- (1) The amount of the alleged overpayment.
- (2) Any interest paid by the institutional provider.
- (3) Interest on the money described in subdivisions (1) and (2) from the date of the institutional provider's repayment.

(h) Interest due under this section by either the institutional provider or the office of the secretary shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(i) Interest on an overpayment to an institutional provider is not due from the institutional provider if the office of the secretary or the office of the secretary's designee determines that the overpayment is the result of an error by the following:

- (1) The office of the secretary.
- (2) A contractor of the office of the secretary.

(j) If interest on an overpayment to an institutional provider is due from the institutional provider, the office of the secretary or the office of the secretary's designee may, in the course of negotiations with the institutional provider concerning an appeal filed under this section, reduce the amount of interest due from the institutional provider.

SECTION 38. IC 12-15-13-5, AS ADDED BY P.L.213-2015, SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The office shall reimburse at a reimbursement rate for services provided by an ~~ICF/MR~~ **ICF/IID** (as defined in IC 16-29-4-2) that is three percent (3%) greater than the Medicaid reimbursement rate for the services calculated using the methodology in effect on December 31, 2013.

SECTION 39. IC 12-15-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this section, "facility" refers to an intermediate care facility for ~~the mentally retarded (ICF/MR)~~ **individuals with intellectual disabilities (ICF/IID)** not operated by a state agency.

(b) The rules adopted by the secretary may not establish eligibility criteria for Medicaid reimbursement for placement or services in a facility, including services provided under a Medicaid waiver, that are more restrictive than federal requirements for Medicaid reimbursement in a facility or under a Medicaid waiver.

(c) The office may not implement a policy that may not be adopted as a rule under subsection (b).

SECTION 40. IC 12-15-32-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "facility" means a facility licensed under IC 12-28-5 and



certified under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities**.

SECTION 41. IC 12-15-32-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The office may assess community residential facilities for the developmentally disabled (as defined in IC 12-7-2-61) and intermediate care facilities for ~~the mentally retarded (ICF/MR)~~ **individuals with intellectual disabilities (ICF/IID)** (as defined in IC 16-29-4-2) that are not operated by the state in an amount not to exceed ten percent (10%) of the total annual revenue of the facility for the facility's preceding fiscal year.

(b) The assessments shall be paid to the office of Medicaid policy and planning in equal monthly amounts on or before the tenth day of each calendar month. The office may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) Revenue from the assessments shall be credited to a special account within the state general fund to be called the Medicaid assessment account. Money in the account may be used only for services for which federal financial participation under Medicaid is available to match state funds. An amount equivalent to the federal financial participation estimated to be received for services financed from assessments under subsection (a) shall be used to finance Medicaid services provided by facilities described in subsection (a).

(d) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

SECTION 42. IC 12-15-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this section, "conversion" means:

- (1) the permanent closure of a Medicaid funded intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** bed, including intermediate care facilities for ~~the mentally retarded~~ **individuals with intellectual disabilities** licensed under IC 16-28-2, facilities licensed under IC 12-28-5 and certified under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities**, and state institutions; and



(2) the use of the state funds that paid the state share of Medicaid funding for the beds described in subdivision (1) to fund the expansion of the number of individuals receiving waiver services under an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** Medicaid waiver.

SECTION 43. IC 12-15-39-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The division shall do the following:

(1) Assist providers who provide for the voluntary conversion of Medicaid funded intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** beds.

(2) Assist in securing appropriate placements for individuals who reside in the intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** beds that are converted. However, an individual may not be moved from an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** bed until an appropriate alternative placement is available.

SECTION 44. IC 12-15-39-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Any savings that may result from a conversion under this chapter of an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** licensed under IC 16-28-2 or a state institution must be used to expand waiver services under an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** Medicaid waiver to individuals throughout Indiana.

SECTION 45. IC 12-17.2-2.5-3, AS ADDED BY P.L.126-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Each committee must consist of members appointed:

(1) by the ~~director~~ **secretary** or the ~~director's~~ **secretary's** designee; and

(2) to provide diversity in representing the types of child care that comprise the committee's category specified in section 1 of this chapter, including size, licensure status, accreditation status, and geographic location in Indiana.

SECTION 46. IC 12-17.2-7.2-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. The secretary may adopt rules under IC 4-22-2 concerning the implementation and the administration of the program.**

SECTION 47. IC 12-17.6-1-4 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. "Office" refers
 2 to the office of ~~the children's health insurance program established by~~
 3 ~~IC 12-17.6-2-1~~. **Medicaid policy and planning established by**
 4 **IC 12-8-6.5-1.**

5 SECTION 48. IC 12-17.6-2-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]]: Sec. 1. ~~The office of~~
 7 ~~the children's health insurance program is established within the office~~
 8 ~~of the secretary shall administer the children's health insurance~~
 9 **program through the office of Medicaid policy and planning.**

10 SECTION 49. IC 12-17.6-2-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]]: Sec. 2. ~~The secretary,~~
 12 **through the office,** shall design and administer a system to provide
 13 health benefits coverage for children eligible for the program.

14 SECTION 50. IC 12-17.6-2-11 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]]: Sec. 11. (a) ~~The office~~
 16 **secretary** shall adopt rules under IC 4-22-2 to implement the program.

17 (b) ~~The office secretary~~ may adopt emergency rules under
 18 IC 4-22-2-37.1 to implement the program on an emergency basis.

19 (c) **A rule adopted before April 15, 2016, by the office of**
 20 **children's health insurance program is transferred to the office of**
 21 **the secretary.**

22 SECTION 51. IC 12-17.6-7-2 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~The secretary,~~
 24 **through the office,** shall administer the fund.

25 SECTION 52. IC 12-17.6-8-6 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~The secretary,~~
 27 **through the office:**

28 (1) may make necessary additional investigations; and

29 (2) shall make decisions concerning the:

30 (A) granting of program services; and

31 (B) amount of program services to be granted;

32 to an applicant or a recipient that the office believes are justified
 33 and in conformity with the program.

34 SECTION 53. IC 12-21-2-3, AS AMENDED BY P.L.160-2012,
 35 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 UPON PASSAGE]: Sec. 3. ~~In addition to the general authority granted~~
 37 ~~to the director under IC 12-8-8.5; The director secretary or the~~
 38 **secretary's designee** shall do the following:

39 (1) Organize the division, create the appropriate personnel
 40 positions, and employ personnel necessary to discharge the
 41 statutory duties and powers of the division or a bureau of the
 42 division.



- (2) Subject to the approval of the state personnel department, establish personnel qualifications for all deputy directors, assistant directors, bureau heads, and superintendents.
- (3) Subject to the approval of the budget director and the governor, establish the compensation of all deputy directors, assistant directors, bureau heads, and superintendents.
- (4) Study the entire problem of mental health, mental illness, and addictions existing in Indiana.
- (5) Adopt rules under IC 4-22-2 for the following:
 - (A) Standards for the operation of private institutions that are licensed under IC 12-25 for the diagnosis, treatment, and care of individuals with psychiatric disorders, addictions, or other abnormal mental conditions.
 - (B) Licensing or certifying community residential programs described in IC 12-22-2-3.5 for individuals with serious mental illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) with the exception of psychiatric residential treatment facilities.
 - (C) Certifying community mental health centers to operate in Indiana.
 - (D) Establish exclusive geographic primary service areas for community mental health centers. The rules must include the following:
 - (i) Criteria and procedures to justify the change to the boundaries of a community mental health center's primary service area.
 - (ii) Criteria and procedures to justify the change of an assignment of a community mental health center to a primary service area.
 - (iii) A provision specifying that the criteria and procedures determined in items (i) and (ii) must include an option for the county and the community mental health center to initiate a request for a change in primary service area or provider assignment.
 - (iv) A provision specifying the criteria and procedures determined in items (i) and (ii) may not limit an eligible consumer's right to choose or access the services of any provider who is certified by the division of mental health and addiction to provide public supported mental health services.
- (6) Institute programs, in conjunction with an accredited college or university and with the approval, if required by law, of the



commission for higher education, for the instruction of students of mental health and other related occupations. The programs may be designed to meet requirements for undergraduate and postgraduate degrees and to provide continuing education and research.

(7) Develop programs to educate the public in regard to the prevention, diagnosis, treatment, and care of all abnormal mental conditions.

(8) Make the facilities of the Larue D. Carter Memorial Hospital available for the instruction of medical students, student nurses, interns, and resident physicians under the supervision of the faculty of the Indiana University School of Medicine for use by the school in connection with research and instruction in psychiatric disorders.

(9) Institute a stipend program designed to improve the quality and quantity of staff that state institutions employ.

(10) Establish, supervise, and conduct community programs, either directly or by contract, for the diagnosis, treatment, and prevention of psychiatric disorders.

(11) Adopt rules under IC 4-22-2 concerning the records and data to be kept concerning individuals admitted to state institutions, community mental health centers, or other providers.

(12) Compile information and statistics concerning the ethnicity and gender of a program or service recipient.

(13) Establish standards for services described in IC 12-7-2-40.6 for community mental health centers and other providers.

SECTION 54. IC 12-21-2-5, AS AMENDED BY P.L.99-2007, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Subject to ~~subsection~~ **subsections (b) and (c)**, the ~~director~~ **secretary** may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the ~~director~~ **secretary** decides that a final decision is to be made concerning the placement of an individual with a mental illness in a mental health facility, the final decision must be made:

(1) by the ~~director~~, **secretary**, if the ~~director~~ **secretary** is a licensed psychiatrist or licensed psychologist; or

(2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the ~~director~~, **secretary**;

in consultation with the patient's psychiatrist or psychologist.

(c) Subsection (b) does not apply to an initial placement designation made under IC 12-24-12-10(b).



1 SECTION 55. IC 12-21-2-8, AS AMENDED BY P.L.143-2011,
 2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 8. (a) The ~~director~~ **secretary or the**
 4 **secretary's designee** shall develop a comprehensive system of
 5 monitoring, evaluation, and quality assurance for the services required
 6 by this chapter.

7 (b) The ~~director~~ **secretary** shall determine to whom contracts are
 8 awarded, based on the following factors:

- 9 (1) The continuity of services a contractor provides for patients.
- 10 (2) The accessibility of a contractor's services to patients.
- 11 (3) The acceptability of a contractor's services to patients.
- 12 (4) A contractor's ability to focus services on building the
- 13 self-sufficiency of the patient.

14 (c) This subsection applies to the reimbursement of contract
 15 payments to providers. Payments must be determined prospectively in
 16 accordance with generally accepted accounting principles and actuarial
 17 principles recognizing costs incurred by efficiently and economically
 18 operated programs that:

- 19 (1) serve individuals with a mental illness or substance abuse
- 20 patients; and
- 21 (2) are subject to quality and safety standards and laws.

22 (d) Before entering into a contract under this section, the ~~director~~
 23 **secretary or the secretary's designee** shall submit the contract to the
 24 attorney general for approval as to form and legality.

25 (e) A contract under this section must do the following:

- 26 (1) Specify:
 - 27 (A) the work to be performed; and
 - 28 (B) the patient populations to whom services must be
 - 29 provided.
- 30 (2) Provide for a reduction in funding or termination of the
- 31 contract for failure to comply with terms of the contract.
- 32 (3) Require that the contractor meet the standards set forth in
- 33 rules adopted by the division of mental health and addiction under
- 34 IC 4-22-2.
- 35 (4) Require that the contractor participate in the division's
- 36 evaluation process.
- 37 (5) For any service for which the division chooses to contract on
- 38 a per diem basis, the per diem reimbursement shall be determined
- 39 under subsection (c) for the contractor's reasonable cost of
- 40 providing services.
- 41 (6) In contracts with capitated payment provisions, provide that
- 42 the contractor's cost of purchasing stop-loss insurance for the



1 patient populations to be served in amounts and with limits
2 customarily purchased by prepaid health care plans must be:

3 (A) included in the actuarial determination of the capitated
4 payment amounts; or

5 (B) separately paid to the contractor by the division.

6 (7) Provide that a contract for enumerated services granted by the
7 division under this section to an approved provider may not create
8 or confer upon the provider liability or responsibility for care or
9 services beyond those services supported by the contract.

10 SECTION 56. IC 12-24-2-2 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. Subject to the
12 approval of the governor, the ~~director of the division~~ **secretary or the**
13 **secretary's designee** shall appoint the superintendent of a state
14 institution.

15 SECTION 57. IC 12-24-2-3 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~director of~~
17 ~~the division~~ **secretary** may adopt rules under IC 4-22-2 to prescribe the
18 qualifications of a superintendent of a state institution under the control
19 of the division. A superintendent must possess the prescribed
20 qualifications.

21 SECTION 58. IC 12-24-2-4, AS AMENDED BY P.L.28-2012,
22 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 UPON PASSAGE]: Sec. 4. A superintendent serves at the pleasure of
24 the ~~director~~ **secretary**.

25 SECTION 59. IC 12-25-1-2 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The standards of
27 treatment and care to be maintained must be appropriate under existing
28 knowledge of the needs of the individuals, as determined by the
29 ~~director~~ **secretary**. The ~~director~~ **secretary** shall prescribe minimum
30 standards for the private institutions and for the care and treatment
31 provided in the private institutions as set forth in IC 12-21-2-3(5).

32 SECTION 60. IC 12-25-1-3 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person must
34 hold a license issued by the ~~director~~ **secretary or the secretary's**
35 **designee** to establish, conduct, operate, or maintain a private institution
36 under any name for the treatment and care of individuals with
37 psychiatric disorders, developmental disabilities, convulsive
38 disturbances, or other abnormal mental conditions.

39 SECTION 61. IC 12-25-1-6 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The ~~director~~
41 **secretary or the secretary's designee** may:

42 (1) issue a license upon an application without further evidence;



1 or

2 (2) ~~conduct a hearing on the application and conduct an~~
 3 ~~investigation refer the license application for a hearing~~ to
 4 determine whether a license should be granted.

5 **(b) If the director refers the license application for a hearing**
 6 **under subsection (a)(2), the secretary shall:**

7 **(1) serve as the administrative law judge; or**

8 **(2) appoint an administrative law judge to serve as the**
 9 **secretary's designee.**

10 **The secretary or the secretary's designee shall conduct a hearing**
 11 **on the referred license application and conduct an investigation to**
 12 **determine whether the license should be granted.**

13 SECTION 62. IC 12-25-1-7 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If after a hearing,
 15 the ~~director~~ **secretary or the secretary's designee** finds that a license
 16 should not be granted, the ~~director~~ **secretary or the secretary's**
 17 **designee** shall notify the applicant, giving the reason for the finding.

18 SECTION 63. IC 12-25-1-8 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. If after a hearing,
 20 the ~~director~~ **secretary or the secretary's designee** finds that an
 21 applicant complies and will in the future comply with this article and
 22 the rules adopted under IC 12-21-2-3(5), the director shall issue a
 23 license to the applicant to operate the institution.

24 SECTION 64. IC 12-25-2-3 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A licensee is
 26 entitled to notice of not less than thirty (30) days of the time and place
 27 for a hearing before the ~~director~~ **secretary or the secretary's designee**
 28 on the complaint. The notice shall be sent by registered mail to the
 29 licensee at the address shown in the licensee's application.

30 SECTION 65. IC 12-25-2-5 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The ~~director,~~
 32 **secretary or the secretary's designee**, after a hearing, may suspend
 33 or revoke the license.

34 SECTION 66. IC 12-25-2-6 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. If the ~~director~~
 36 **secretary or the secretary's designee** suspends a license, the ~~director~~
 37 **secretary or the secretary's designee** may also recommend the
 38 conditions to be met by the licensee during the period of suspension to
 39 entitle the licensee to resume operation of the institution on the existing
 40 license.

41 SECTION 67. IC 12-25-2-7 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If the ~~director~~



1 **secretary or the secretary's designee** suspends or revokes a license,
 2 the ~~director~~ **secretary or the secretary's designee** shall enter an order
 3 in accordance with the suspension or revocation in which the grounds
 4 of the suspension or revocation are set forth.

5 SECTION 68. IC 12-25-2-8 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The ~~director~~
 7 **secretary or the secretary's designee** may, after a hearing, hold a case
 8 under advisement and make a recommendation of the requirements to
 9 be met by the licensee to avoid suspension or revocation. The ~~director~~
 10 **secretary or the secretary's designee** shall enter an order accordingly
 11 and notify the licensee of the finding by registered mail.

12 (b) If the licensee complies with the order and proves that fact to the
 13 satisfaction of the ~~director~~, **secretary or the secretary's designee**, the
 14 ~~director~~ **secretary or the secretary's designee** shall enter an order
 15 showing satisfactory compliance and dismissing the case because of the
 16 compliance.

17 SECTION 69. IC 12-25-3-1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A licensee or an
 19 applicant for a license aggrieved by an action of the ~~director~~ **secretary**
 20 **or the secretary's designee** may appeal the action to the circuit or
 21 superior court in the county in which the institution in question is
 22 located or is proposed to be located by filing a notice and bond in the
 23 amount of two hundred dollars (\$200) for the payment of costs in the
 24 office of the circuit court clerk of the county.

25 SECTION 70. IC 12-25-3-2 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The circuit court
 27 clerk shall notify the ~~director~~ **secretary** that the appeal has been taken.

28 SECTION 71. IC 12-25-3-3 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~director~~
 30 **secretary or the secretary's designee** shall cause to be certified to the
 31 appropriate court a copy of:

- 32 (1) the complaint and the order for a suspension or revocation; or
- 33 (2) the application and order of refusal of a license.

34 SECTION 72. IC 12-25-3-4 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The case
 36 shall be docketed as a civil action, with the applicant or licensee as the
 37 plaintiff and the ~~director~~ **secretary** as the defendant.

38 (b) No further pleading is necessary.

39 SECTION 73. IC 12-25-3-5 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The court has
 41 jurisdiction to the extent that courts exercise jurisdiction over
 42 administrative bodies and may enter an order either sustaining the



1 action of the ~~director~~ **secretary** or setting the action aside.

2 SECTION 74. IC 12-25-3-6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The circuit court
4 clerk shall certify to the ~~director~~ **secretary** a copy of the decision of the
5 court.

6 SECTION 75. IC 12-26-11-1, AS AMENDED BY P.L.117-2015,
7 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]: Sec. 1. The superintendent of a facility to which an
9 individual was committed under IC 12-26-6 or IC 12-26-7 or to which
10 the individual's commitment was transferred under this chapter, may
11 transfer the commitment of the individual to:

- 12 (1) a state institution;
- 13 (2) a community mental health center;
- 14 (3) a community intellectual disability and other developmental
- 15 disabilities center;
- 16 (4) a federal facility;
- 17 (5) a psychiatric unit of a hospital licensed under IC 16-21;
- 18 (6) a private psychiatric facility licensed under IC 12-25;
- 19 (7) a community residential program for the developmentally
- 20 disabled described in IC 12-11-1.1-1(e)(1) or
- 21 IC 12-11-1.1-1(e)(2); or
- 22 (8) an intermediate care facility for ~~the mentally retarded~~
23 ~~(ICF/MR)~~ **individuals with intellectual disabilities (ICF/IID)**
24 that is licensed under IC 16-28 and is not owned by the state;

25 if the transfer is likely to be in the best interest of the individual or
26 other patients.

27 SECTION 76. IC 12-26-14-10 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) After an
29 individual has been returned to the facility to which the individual is
30 committed under this article, the ~~director~~ **secretary** shall conduct a
31 hearing under IC 4-21.5-3 to determine whether:

- 32 (1) the individual has failed to comply with the requirements
- 33 described in section 8 of this chapter;
- 34 (2) the individual is in need of inpatient treatment; and
- 35 (3) the individual's outpatient status should be revoked.

36 (b) A hearing required by subsection (a) may be conducted by a
37 hearing officer appointed by the ~~director~~ **secretary**.

38 (c) An individual may appeal under IC 4-21.5-5 a determination of
39 the hearing officer by filing a petition with the court that committed the
40 individual under IC 12-26-6 or IC 12-26-7.

41 SECTION 77. IC 16-18-2-185 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 185. "~~ICF/MR~~,"



1 **"ICF/IID"**, for purposes of IC 16-29-4, has the meaning set forth in
 2 IC 16-29-4-2.

3 SECTION 78. IC 16-29-4-1 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter
 5 applies to the following:

6 (1) The conversion of existing health facility beds to ~~ICF/MR~~
 7 **ICF/IID** beds.

8 (2) The construction of new ~~ICF/MR~~ **ICF/IID** facilities after June
 9 30, 1987.

10 SECTION 79. IC 16-29-4-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in
 12 this chapter, ~~"ICF/MR"~~ **"ICF/IID"** refers to an intermediate care
 13 facility for ~~the mentally retarded~~ **individuals with intellectual**
 14 **disabilities**.

15 (b) The term does not include a facility administered under
 16 IC 12-11-1.1 or IC 12-22-2.

17 SECTION 80. IC 16-29-4-3, AS AMENDED BY P.L.141-2014,
 18 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 UPON PASSAGE]: Sec. 3. Before the conversion of existing health
 20 facility beds to ~~ICF/MR~~ **ICF/IID** beds or the construction of a new
 21 ~~ICF/MR~~ **ICF/IID** facility, the state department may issue a preliminary
 22 approval of the proposed project, but only if the state department
 23 determines that there is an insufficient number of available beds to care
 24 for all the persons who are determined under IC 12-11-2.1 to be
 25 appropriate for placement in an ~~ICF/MR~~ **ICF/IID** facility.

26 SECTION 81. IC 16-29-4-4, AS AMENDED BY P.L.141-2014,
 27 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: Sec. 4. A proposed project that receives
 29 preliminary approval under this chapter may not add more beds than
 30 the number determined by the state department to be necessary to
 31 provide an available bed for each person determined under
 32 IC 12-11-2.1 to be appropriate for placement in an ~~ICF/MR~~ **ICF/IID**
 33 facility. Upon completion of the proposed project and compliance with
 34 the other requirements for licensure under IC 16-28, the state
 35 department shall issue a license to the facility.

36 SECTION 82. IC 25-23-1-19.4, AS AMENDED BY P.L.58-2014,
 37 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]]: Sec. 19.4. (a) This section does not apply to
 39 certified registered nurse anesthetists.

40 (b) As used in this section, "practitioner" has the meaning set forth
 41 in IC 16-42-19-5. However, the term does not include the following:

42 (1) A veterinarian.



- 1 (2) An advanced practice nurse.
- 2 (3) A physician assistant.
- 3 (c) An advanced practice nurse shall operate:
- 4 (1) in collaboration with a licensed practitioner as evidenced by
- 5 a practice agreement; ~~or~~
- 6 (2) by privileges granted by the governing board of a hospital
- 7 licensed under IC 16-21 with the advice of the medical staff of the
- 8 hospital that sets forth the manner in which an advanced practice
- 9 nurse and a licensed practitioner will cooperate, coordinate, and
- 10 consult with each other in the provision of health care to their
- 11 patients; **or**
- 12 **(3) by privileges granted by the governing body of a hospital**
- 13 **operated under IC 12-24-1 that sets forth the manner in which**
- 14 **an advanced practice nurse and a licensed practitioner will**
- 15 **cooperate, coordinate, and consult with each other in the**
- 16 **provision of health care to their patients.**
- 17 **SECTION 83. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 206, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 4. IC 12-7-2-59 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 59. **(a) Except as provided in subsection (b), "designee" for purposes of IC 12-10-12, has the meaning set forth in IC 12-10-12-2. means an office director, division director, or other employee of the office of the secretary with expertise or knowledge concerning the area for which the individual is being designated.**

(b) The definition set forth in subsection (a) does not apply to the following:

- (1) Designations for purposes of administrative proceedings under IC 4-21.5.**
- (2) IC 12-11-1.1-10.**
- (3) IC 12-15-11-2.5.**
- (4) IC 12-15-13-3.5.**
- (5) IC 12-15-13-4.**
- (6) Designations of superintendents under IC 12-21-2-3 or IC 12-24-2-2.**
- (7) IC 12-30-2-15."**

Page 27, line 36, delete "medical staff" and insert "**governing body**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 206 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 9, Nays 0.

